Cont A2

the oil component is introduced in a total amount ranging from about 30% to about 50% by weight based on the total weight of the product excluding the container.

68. A method for producing a microwave popcorn product comprising:

providing a microwaveable container having a top, a bottom, and an opening at the top of the container; and

introducing into the container sugar pellets and unpopped corn kernels so that the sugar pellets and unpopped corn kernels are not homogeneously mixed, wherein each sugar pellet comprises sugar in an amount of at least about 15% by weight, based on the total weight of the sugar pellet, and is substantially free of an emulsifying agent.

REMARKS

Claims 1 to 11 and 13 to 68, as amended, are pending. Applicants have canceled claim 12 and amended claim 1. Attached hereto is a marked-up version of the changes made to the claims by the current amendment, which is captioned "**Version with markings to show changes made**." The amendments find full support in the original specification and claims. No new matter is presented. In view of the above amendments and remarks that follow, Applicants respectfully request favorable consideration and a timely indication of allowance.

The Examiner rejected claims 1 to 3, 6 to 9, 14 to 17, 49, 51 and 68 under 35 U.S.C. § 102(b) as allegedly anticipated by Katz et al. (U.S. Patent No. 3,851,574). The Examiner rejected claims 51, 54 to 56, 58, 60, 61 and 68 under 35 U.S.C. § 102(b) as allegedly anticipated by LaBaw et al. (U.S. Patent No. 4,904,488). The Examiner rejected claims 1, 2, 4 to 10, 12, 49 to 51 and 68 under 35 U.S.C. § 102(b) as allegedly anticipated by Sheu (WO 00/60954). The Examiner rejected claims 1 to 3, 6 to 9, 12 to 15, 18, 49, 51, 54, 60 to 65 and 68 under 35 U.S.C. § 102(b) as allegedly anticipated by Glass (U.S. Patent No. 5,897,894). The Examiner rejected claims 51, 54, 55, 56 and 58 under 35 U.S.C. § 102(b) as allegedly anticipated by Jensen et al. (U.S. Patent No. 5,443,858) as evident by Watkins et al. (U.S. Patent No. 5,044,777). The Examiner rejected claim 11 under 35 U.S.C. § 103(a) as allegedly unpatentable over Sheu in view of Smith (U.S. Patent No. 3,556,811).

The Examiner rejected claims 57 and 59 under 35 U.S.C. § 103(a) as allegedly unpatentable over LaBaw in view of Katz. The Examiner rejected claims 52, 53, 62 and 66 under 35 U.S.C. § 103(a) as allegedly unpatentable over LaBaw in view of Glass. The Examiner rejected claim 67 under 35 U.S.C. § 103(a) as allegedly unpatentable over LaBaw in view of Glass and Katz. The Examiner rejected claims 19 to 34, 38, 39 and 41 to 47 under 35 U.S.C. § 103(a) as allegedly unpatentable over Glass in view of LaBaw and Watkins. The Examiner rejected claims 35 to 37, 40 and 48 under 35 U.S.C. § 103(a) as allegedly unpatentable over Glass in view of LaBaw and Watkins and Grunewald-Kirstein (U.S. Patent No. 3,843,814). Applicants respectfully traverse these rejections.

Claims 1 and 51 are independent. Claim 1, as amended, recites a sweet microwave popcorn product comprising a microwaveable container; a plurality of unpopped corn kernels in the container; a plurality of sugar pellets in the container, wherein each sugar pellet comprises sugar in an amount of at least about 15% by weight, based on the total weight of the sugar pellet, wherein the sugar pellets are substantially free of an emulsifying agent<u>; and an oil component in the container, wherein more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets</u>. Claim 51, as originally submitted, recites a method for producing a microwave popcorn product comprising providing a microwaveable container having a top, a bottom, and an opening at the top of the container; introducing into the container sugar pellets and unpopped corn kernels, wherein the sugar pellets and unpopped corn kernels are not homogeneously mixed; introducing into the container an oil component, <u>wherein more of the oil component is maintained in the container with the unpopped corn kernels than is maintained with the sugar pellets</u>. As explained in the specification, with this arrangement the corn acts generally as a buffer between the sugar pellets and the oil component, thereby reducing burning of the sugar pellets, which previously was a problem in this art. (See page 7, lines 22 to 24.) The cited references, even in combination, fail to teach or suggest the claimed invention.

Katz is directed to a coated popcorn product. Katz describes at column 4, lines 50 to 59, how the product is prepared. Specifically, any flavorings and/or seasonings are pre-blended, then mixed with corn syrup solids, starch and salt. This total dry mix is dispersed in shortening (such as vegetable oil). The popcorn kernels are then added to the portions of the flavor, film former and shortening premix (which can include sugar) in the individual containers. In other words, the sugar and oil components are premixed prior to the addition of the popcorn kernels, indicating that, at best, the oil component is

equally distributed with the sugar and popcorn kernels. Katz goes on to state, at column 5, lines 4 to 14, that "[a] preferred method of preparing the coating is to intimately mix the film former (which can contain sugar), flavor and fat (which can be oil). . . . The corn is added next and mixing is continued." This passage suggests that more of the oil component is maintained with the sugar than with the unpopped kernels. Katz nowhere teaches or suggest that more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets, as presently claimed. Accordingly, Katz does not anticipate or render obvious the claimed invention.

LaBaw is directed to a uniformly-coated, flavored microwavable popcorn product. Exemplary flavorings include barbeque sauce flavoring (which can include sugar) and caramel flavoring (which can also contain sugar). (See column 5, lines 53 to 54, and lines 66 to 67.) In one embodiment, the flavoring is applied during microwave corn popping by interspersing the flavoring with corn, oil and other ingredients in the bag to be subjected to microwaves. (See column 4, lines 51 to 54.) In an alternative embodiment, the flavoring is applied after the corn is popped. (See column 4, lines 58 to 60.) However, LaBaw nowhere teaches or suggests that more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets, as presently claimed. Accordingly, LaBaw does not anticipate or render obvious the claimed invention. Further, the combination of LaBaw and Katz does not render obvious the claimed invention, as they both suffer from the same deficiency.

Sheu is directed to microwavable popcorn compositions for preparing popcorn with a glaze coating. Sheu discloses providing an amorphous glaze coating premixture in contact with unpopped corn kernels, and then microwaving the mixture. The amorphous glaze coating comprises a hard candy base that can include sugar and optionally a flavoring agent, which can comprise an oil. Accordingly, Sheu teaches that any oil and sugar components are premixed in the amorphous glaze coating premixture before being put into contact with the unpopped corn kernels. Sheu nowhere teaches or suggests that more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets, as presently claimed. Accordingly, Sheu does not anticipate or render obvious the claimed invention.

Smith does not make up for the deficiencies of Sheu. Smith is directed to a carbohydrate-containing base for hard candy. Smith describes that the hard candy base can be poured onto popcorn (which apparently has already been popped) with stirring to coat the popcorn. (See column 9, lines 18

to 25.) Thus, Smith similarly does not teach or suggest that more of an oil component is maintained in the container with the unpopped kernels than is maintained with sugar pellets.

Glass is directed to microwave popcorn compositions comprising a microwave popcorn bag and a charge of kernel popcorn having quantities of fat and coarse salt. Glass describes that a fat slurry is prepared by mixing the fat with salt and any optional ingredients to form a slurry, and then the slurry is sprayed into the microwave popcorn bag after the unpopped kernels have been introduced into the bag. (See column 6, lines 7 to 12; column 7, lines 36 to 38.) Thereafter, the bag is advanced to the "third salt and/or other particulate filling station." (See column 7, lines 39 to 41.) Glass describes that the "other particulate" can include sugar. (See column 6, lines 60 to 64.) Thus, according to Glass, the fat is introduced into the container between the unpopped kernels and the optional sugar component. However, Glass does not teach or suggest that more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets, as presently claimed.

Moreover, Glass teaches further away from the claimed invention and from the other cited references discussed above, as Glass states that preferably the composition is sugar free to avoid sugar related scorching. (See column 6, line 65, to column 7, line 3.) Thus, one skilled in the art would not look to any teachings in Glass to modify the processes of Katz, LaBaw or Sheu, which are directed to the inclusion of sugar, to solve the problem of reducing sugar scorching, as Glass solves this problem by removing the sugar altogether. Glass, in contrast, is directed to creating a "homestyle" popped popcorn seasoned by larger-sized more granular table salt without using the conventional process whereby the salt is added directly to the fat slurry. (See column 2, lines 25 to 39.)

Accordingly, for all these reasons, Glass does not anticipate or render obvious the claimed invention, even when combined with LaBaw and/or Katz.

Jenson is directed to a composition for sweetening microwave popcorn and a method for preparing sweetened microwave popcorn. Jenson provides that unpopped corn is provided in a package. Thereafter, a first blend including sugar and oil is added to the popcorn. Then a second blend, including corn syrup, is added after the first blend. (See column 7, lines 46 to 50.) In other words, Jenson teaches that sugar and oil should be mixed before being introduced with the corn kernels. Jenson nowhere teaches or suggests that more of the oil component is maintained in the container with the unpopped

kernels than is maintained with the sugar pellets, as presently claimed. Accordingly, Jenson does not anticipate or render obvious the claimed invention.

In connection with the rejection over Jenson and the rejection over the combination of Glass and LaBaw, the Examiner relied on teachings in Watkins. Watkins is directed to a packaging for popping corn, but nowhere teaches or suggests the use of sugar or oil in combination with the unpopped kernels, much less that more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets. Accordingly, Watkins does not remedy the deficiencies of Jenson, Glass, and LaBaw.

The Examiner relied on Grunewald-Kirstein in connection with the rejection over the combination of Glass, LaBaw and Watkins. Grunewald-Kirstein is directed to a method for preparing coated popcorn. Grunewald-Kirstein describes dissolving sugar in oil to form a liquid coating mass. Raw corn kernels are then added to the liquid coating mass. (See abstract.) Thus, Grunewald-Kirstein, like the other cited references, does not teach or suggest that more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets, as presently claimed. Accordingly, Grunewald-Kirstein does not remedy the deficiencies of Glass, LaBaw and Watkins.

In view of the foregoing remarks, Applicants respectfully request that all of the prior art rejections be withdrawn. Applicants submit that claims 1 to 11 and 13 to 68, as amended, are therefore in condition for allowance, and a timely indication of allowance is respectfully requested. If there are any remaining issues that can be addressed by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By ______________________

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KMO/edb

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims

Please amend claim 1 as follows:

1. (Amended) A sweet microwave popcorn product comprising:

a microwaveable container;

a plurality of unpopped corn kernels in the container; [~~and~~]

a plurality of sugar pellets in the container, wherein each sugar pellet comprises sugar in an amount of at least about 15% by weight, based on the total weight of the sugar pellet, wherein the sugar pellets are substantially free of an emulsifying agent; and

an oil component in the container, wherein more of the oil component is maintained in the container with the unpopped kernels than is maintained with the sugar pellets.

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